

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

RICHARD D. POLLEY and  
LINDA RADFORD,

Plaintiffs

vs.

No. 11 CV 861 KG/RHS

XUREX, INC. F/K/A/  
XUREX NANO-COATINGS CORP.,

Defendant.

ORDER OF PARTIAL SUMMARY JUDGMENT

Having granted, in part, Plaintiffs' Supplemental Motion for Summary Judgment (Doc. 87) by a Memorandum Opinion and Order entered contemporaneously with this Order of Partial Summary Judgment,

IT IS ORDERED that:

1. summary judgment is entered in Plaintiffs' favor on Xurex's First Affirmative Defense, Second Affirmative Defense, and Third Affirmative Defense;
2. Xurex's First Affirmative Defense, Second Affirmative Defense, and Third Affirmative Defense are dismissed with prejudice;
3. summary judgment is entered in Plaintiffs' favor on the portions of Xurex's Fifth Affirmative Defense concerning lack of consideration for the Separation Agreement and Promissory Note and concerning Bishop entering the Separation Documents under duress;
4. the portions of Xurex's Fifth Affirmative Defense concerning lack of consideration for the Separation Agreement and Promissory Note and concerning Bishop entering the Separation Documents under duress are dismissed with prejudice;

5. summary judgment is entered in Plaintiffs' favor on the portions of Xurex's Fifth and Seventh Affirmative Defenses arguing that Bishop did not have the authority to sign the Separation Documents and did not receive the authority from the XNC Board of Directors to execute the Separation Documents;

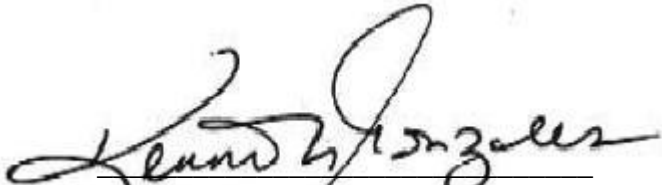
6. the portions of Xurex's Fifth and Seventh Affirmative Defenses arguing that Bishop did not have the authority to sign the Separation Documents and did not receive the authority from the XNC Board of Directors to execute the Separation Documents are dismissed with prejudice;

7. summary judgment is entered in Plaintiffs' favor on the portions of Xurex's Seventh Affirmative Defense concerning lack of consideration for the Separation Agreement and Promissory Note and concerning Bishop entering the Separation Documents under duress; and

8. the portions of Xurex's Seventh Affirmative Defense concerning lack of consideration for the Separation Agreement and Promissory Note and concerning Bishop entering the Separation Documents under duress are dismissed with prejudice;

9. summary judgment is entered in Plaintiffs' favor on Xurex's Counterclaim Counts III and IV; and

10. Xurex's Counterclaim Counts III and IV are dismissed with prejudice.

  
UNITED STATES DISTRICT JUDGE